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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,216	04/07/2004	Ernest W. Moody	MOODY 51	9418
24258	7590	10/11/2006	EXAMINER	
JOHN EDWARD ROETHEL 2290 S. JONES BLVD. #100 LAS VEGAS, NV 89146			TORIMIRO, ADETOKUNBO OLUSEGUN	
			ART UNIT	PAPER NUMBER
			3709	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,216

Applicant(s)

MOODY, ERNEST W.

Examiner

Adetokunbo O. Torimiro

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: 6/28/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **ref. no. 56 (payout tray) on page 8, line 1; ref. No. 30 (button panel) on page 9, line 1 in the specification.**
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "40" and "30" have both been used to designate **-the button panel- in the specification.**
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **"41".**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 1 and 5 are objected to because of the following informalities:

Claim 1, line 10: "a first final hand" in claim 1 is not consistent with the claim language in claims 2-4 such as "final first hand", and hence is suggested to be changed to -- a final first hand --.

Claim 5, line 11: "the first final hand" in claim 5 is suggested to be changed to -- the final first hand --.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claims 1 and 5: respectively, the limitation "to form a final second hand determining the poker hand ranking of the resulting cards of the final second hand" in claim 1, lines 12-14 and claim 5, lines 12-14, renders the claim indefinite because the limitation "the resulting card" lacks clear antecedent basis. It is suggested to be -- resulting in a final second hand and determining the poker hand ranking of the final second hand --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferguson (US 6,270,405).

Re claim 1: Ferguson teaches a method of playing a card game comprising displaying a first hand of at least five cards all face up, a player selecting which cards of the initial hand are to be held in the first hand and which cards to be discarded from the first hand, displaying additional cards in the first hand resulting in a final first hand and determining the poker hand ranking of the final first hand, and displaying additional cards in the second hand resulting in a final second hand and determining the poker hand ranking of the final second hand (see Fig. 3A-3K; col.7, lines 46-55; col.8, lines 32-36).

Re claim 2 and 6: Ferguson further teaches the method including the steps of the player making a first wager that is applied to the first hand and a second wager that is applied to the second hand (see col.3, lines 37-39), paying the player a pre-established /predetermined payoff scheduled amount based on the amount of the first wager if the resulting cards of the final first hand comprise a predetermined poker hand ranking, and paying the player a pre-established /predetermined payoff scheduled amount based on the

amount of the second wager if the resulting cards of the final second hand comprise a predetermined poker hand ranking (see col.3, lines 52-55).

Re claim 3 and 7: Ferguson also further teaches the method including the steps of the player making a wager that is allocated between the first hand and the second hand (see col.4, lines 43-45), paying the player a pre-established */predetermined payoff scheduled* amount based on the amount of the wager allocated to the first hand if the resulting cards of the final first hand comprise a predetermined poker hand ranking, and paying the player a pre-established */predetermined payoff scheduled* amount based on the amount of the wager allocated to the second hand if the resulting cards of the final second hand comprise a predetermined poker hand ranking (see col.3, lines 52-55).

Re claim 4 and 9: Ferguson discloses the method of playing a game in which the final first hand has at least three cards and the final second hand has at least three cards (see fig. 3K, col.8, lines 34-36). In respect to claims 4 and 9, it is believed to be inherent that final first hand and final second hand has five cards because the whole process of the game deals with playing five cards in the initial hand and having five cards for the final hand as well in order to determine the value of the poker hand.

Re claim 5: Ferguson teaches a method of playing a card game comprising displaying a first hand of a plurality cards all face up, a player selecting which cards of the initial hand are to be held in the first hand and which cards to be discarded from the first hand,

Art Unit: 3714

displaying additional cards in the first hand resulting in a final first hand and determining the poker hand ranking of the final first hand, and displaying additional cards in the second hand resulting in a final second hand and determining the poker hand ranking of the final second hand (see Fig. 1A-1H; col.13, lines 4-23).

Re claim 8: Ferguson discloses the method of playing a card game in which the first hand has at least three card (see col.4, lines 54-56).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walker discloses a video poker system and method; Cooper discloses method of playing a video game poker; Wilcox teaches a poker game method; Kadlic discloses a bonus joker poker; Dabrowski teaches double poker; Benedict discloses a gaming machine.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Lee can be reached on (571) 272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AOT



JONG SUK LEE
SUPERVISORY PATENT EXAMINER